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JUN 5 2003

In re Application of:  
KRASEMANN *et al.*  
Application No. 09/729,058  
Filed: December 04, 2000  
Attorney Docket No.: GR 99 P 5363

DECISION ON PETITION  
TO WITHDRAW HOLDING  
OF ABANDONMENT

This is a decision on the petition filed February 25, 2003, and supplemented on June 02, 2003. This communication has been treated as a petition under 37 CFR § 1.181, to withdraw the holding of abandonment. No petition fee is required.

The petition to withdraw the holding of abandonment is **GRANTED**.

The application was held abandoned for the failure timely file a response to an Office action mailed on March 29, 2002. A Notice of Abandonment was mailed on February 11, 2003.

Petitioner asserts that on July 01, 2002, a response including an amendment was timely filed in the above-identified application. To support this assertion, petitioner has submitted a copy of an 11 page response bearing a certificate under 37 CFR 1.8(a) showing a date of transmission of July 01, 2002, a copy of a report from petitioner's facsimile machine which acknowledges satisfactory facsimile transmission of 11 pages to the PTO on July 01, 2002, and a statement from Carmen Panizzi, which attests to the previous timely transmission of the response to the PTO.

A review of the application file record reveals that the above-identified response is not of record in the application file and cannot be located. However, 37 CFR § 1.8(b) provides for accepting a correspondence as being timely filed if it was mailed or transmitted in accordance with 37 CFR § 1.8(a), and is reproduced below:

In the event that correspondence is considered timely filed by being mailed or transmitted in accordance with paragraph (a) of this section, but not received in the Patent and Trademark Office, and the application is held to be abandoned or the proceeding is dismissed, terminated, or decided with prejudice, the correspondence will be considered timely if the party who forwarded such correspondence: (1) informs the Office of the

previous mailing or transmission of the correspondence promptly after becoming aware that the Office has no evidence of receipt of the correspondence; (2) supplies an additional copy of the previously mailed or transmitted correspondence and certificate; and (3) includes a statement which attests on a personal knowledge basis or to the satisfaction of the Commissioner to the previous timely mailing or transmission. If the correspondence was sent by facsimile transmission, a copy of the sending unit's report confirming transmission may be used to support this statement.

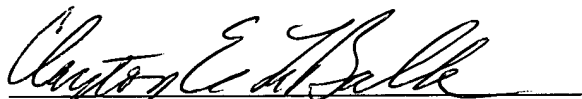
The petition, meets the conditions of 37 CFR 1.8(b) to establish the previous timely filing of the response. Accordingly, the petition is **granted**.

For the above stated reason, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn. The application is restored to pending status.

The copy of the response submitted on July 01, 2002, is accepted since the response originally submitted was apparently lost.

The application file is being forwarded to the Technology Center 2800 support staff for entry of the response. From there, the application will be forwarded to the examiner for further examination.

Inquiries regarding this decision should be directed to Clayton E. LaBalle at (703) 308-0519.

  
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